

In Re Patent Application of:

**ROY**

Serial No: **10/780,949**

Filing Date: **FEBRUARY 18, 2004**

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#### REMARKS

The Examiner is thanked for the thorough examination of the present application. Independent Claims 1 and 14 have been amended to incorporate subject matter from their respective dependent Claims 6 and 18, which have been cancelled. Independent Claims 21 and 25 have been similarly amended. Independent Claim 21 has also be amended to recite the use of an adaptive polling engine module, similar to independent Claims 14 and 25. Moreover, Claim 23 has been amended to correct the noted informality, as helpfully pointed out by the Examiner. No new matter is being added.

In view of the amendments and supporting arguments presented in detail below, it is submitted that all of the claims are patentable.

#### I. The Claimed Invention

The present invention is directed to a communications system. As recited in amended independent Claim 1, for example, the system includes at least one data storage device for storing messages for respective users, and a plurality of mobile wireless communications devices each associated with a respective user for accessing the messages stored on the at least one data storage device. The system further includes an adaptive polling engine for polling the at least one data storage device for stored messages and providing the polled messages to mobile wireless communications devices of respective users. The adaptive polling

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engine also learns respective user usage patterns for each mobile wireless communications device, and changes a respective rate of polling for each mobile wireless communications device based thereon, and also based upon a given mobile wireless communications device being outside a wireless coverage area.

Independent Claim 14 is directed to a related adaptive polling engine. Furthermore, independent Claim 21 is directed to a related method, and independent Claim 25 is directed to a related computer-readable medium.

## **II. The Claims Are Patentable**

As noted above, subject matter from dependent Claims 6 and 18 has been added to their respective independent Claims 1 and 14, and independent Claims 21 and 25 have been amended to include similar subject matter. Claims 6 and 18 were rejected under 35 U.S.C. §103(a) over U.S. Published Patent Application No. 2003/0140092 to Caruso et al. This reference is directed to a system for adaptive notification in a data communications network. The system includes a data transport network in communication with a client and a server. The client comprises a client-side adaptive notification processor in communication with the data transport network. The server comprises a server-side adaptive notification processor in communication with the data transport network. See, e.g., paragraphs 0006-0008 of Caruso et al.

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While the Examiner correctly acknowledges that Caruso et al. does not disclose changing a respective rate of polling for each mobile wireless communications device based upon a given mobile wireless communications device being outside a wireless coverage area, the Examiner contends that this would have been obvious based upon the teaching of Caruso et al. that polling is based on registration events. For support, the Examiner points to paragraph 0020 of Caruso et al., which is reproduced below:

"[0020] Each client **155a-c** includes a client-side adaptive notification processor **180a-c**, respectively. The client-side adaptive notification processor **180a-c** may register with its associated server **120a-c** and receive adaptive notifications from its associated server **120a-c**. The client-side adaptive notification processor **180a-c** may include a client registration processor **160a-c** and a client receiver **170a-c**. The client registration processor **160a-c** may register the client **155a-c** with its associated server **120a-c** or respond to registration requests from the associated server **120a-c**. Registration may include sending one or more pieces of data of registration information for the client **155a-c** to the associated server **120a-c** at the time the client **155a-c** joins the network **110**. The client registration processor **160a-c** may also periodically resend registration information to the associated server **120a-c** as registration information within the client **155a-c** changes. The client receiver **170a-c** receives adaptive notifications and refresh interval information from the associated server **120a-c**."

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It is respectfully submitted that the Examiner mischaracterizes the teachings of Caruso et al., and that this reference fails to teach all of the recitations of the above-noted independent claims. In particular, in the Caruso et al. system it is the client devices **155** that poll servers **120**. See, e.g., paragraphs 0023 and 0026 of Caruso et al. In stark contrast, the above-noted independent claims recite an adaptive polling engine (or polling engine module) for polling the at least one data storage device for stored messages and providing the polled messages to mobile wireless communications devices of respective users. That is, the adaptive polling engine which performs polling is separate from the client devices, i.e., the mobile wireless communications devices.

Moreover, while the server may change a refresh polling interval in the Caruso et al. system, it does not do so based upon respective user usage patterns for each client device. Rather, as noted in paragraph 0018 of Caruso et al., the refresh interval is computed for each client device based upon a total number of active clients on the network, and/or device characteristics of a client device such as class of service, processing power, and connection speed. Nowhere does Caruso et al. teach or fairly suggest that the refresh rate for a given client device should or could be changed based upon the associated user's usage pattern of the device.

Additionally, regarding the Examiner's contention that changing a rate of polling for each mobile wireless

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communications device based upon a given mobile wireless device being outside a wireless coverage area would have been obvious in view of paragraph 0020 of Caruso et al., this paragraph merely teaches how clients become "active" in the network. As discussed in paragraph 0015 of Caruso et al., this system is primarily concerned with client devices that communicate with servers over the Internet, wide area networks, and/or local area networks. This is why Caruso et al. does not teach or even contemplate how to address intermittent loss of communications with a mobile wireless communications device resulting from the device being outside a wireless coverage area.

As such, Caruso et al. fails to teach or fairly suggest all of the recitations of the above-noted independent claims as amended. Since the remaining prior art of record fails to properly provide the above-noted deficiencies, these claims are patentable. To find otherwise would require the impermissible use of the claimed invention in hindsight as a roadmap or template to piece together the teachings of the prior art.

Accordingly, it is submitted that independent Claims 1, 14, 21, and 25 are patentable over the prior art. Their respective dependent claims, which recite yet further distinguishing features, are also patentable over the prior art and require no further discussion herein.

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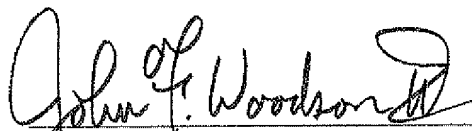
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**CONCLUSION**

In view of the amendments to the claims and the arguments provided herein, it is submitted that all the claims are patentable. Accordingly, a Notice of Allowance is requested in due course. Should any minor informalities need to be addressed, the Examiner is encouraged to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,



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